

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

Case No.: 3:08-cv-143

PORTALES PLACE PROPERTY, LLC,

Plaintiff,

v.

MARIO GUESS a/k/a JERRY DEMARIO  
GUESS a/k/a J.D. GUESS a/k/a JERRY D.  
GUESS, LIGNA ACQUISITION GROUP, LLC,  
and THP ESCROW SERVICES CORP.,

Defendants.

**ORDER OF ARREST**

This matter is before the Court on the Motion of Plaintiff Portales Place Property, LLC (“Plaintiff”) for an order for the civil arrest and bail of Mario Guess a/k/a Jerry Demario Guess a/k/a J.D. Guess a/k/a Jerry D. Guess (“Guess”) or, in the alternative, for an order directing Guess to appear and show cause why the Court should not issue an order for his arrest pursuant to N.C. Gen. Stat. § 1-409 *et seq.*

This Court, having reviewed and considered all matters of record finds as follows:

1. On April 28, this Court issued an order directing Guess to appear on April 30, 2008 at 2:00 p.m. to show cause as why the Court should not issue an order for his arrest pursuant to N.C. Gen. Stat. § 1-409 *et seq.* [Doc # 34] (the “Show Cause Order”).

2. Counsel for Guess promptly notified Guess of entry of the Show Cause Order and of his obligation to appear before the Court as ordered. However, Guess failed to appear at the April 30, 2008 hearing as required by the Show Cause Order.

3. North Carolina law provides that a defendant may be civilly arrested “when the action is brought to recover damages for fraud and deceit” or “when the defendant has removed, or disposed of his property, or is about to do so, with the intent to defraud his creditors.” N.C. Gen. Stat. § 1-410(4) and (5)

4. Ligna received over \$1,5500,000 from various persons (including Plaintiff) between January 10, 2008 and March 6, 2008, with at least some of the money being transferred directly to Guess. On Wednesday, April 23, 2008, Guess filed a Verified Disclosure with the Court [Doc # 26] stating that Ligna now has virtually no assets.

5. Arrest and Bail is an appropriate remedy in this case because it appears that Ligna is a sham enterprise by which Guess obtained money from Plaintiff under false pretenses pursuant to a fraudulent scheme. The record also indicates that Guess surreptitiously transferred much of Plaintiff's money to a personal bank account located outside the State of North Carolina.

6. Pursuant to N.C. Gen. Stat. § 1-412, Plaintiff must post a bond of at least one hundred dollars (\$100.00) in support of this arrest order. In light of Guess's failure to appear in accordance with the Show Cause Order, the Court deems \$100.00 to be a sufficient amount for the required bond.

It is therefore ORDERED and DECREED that:

A. Mario Guess a/k/a Jerry Demario Guess a/k/a J.D. Guess a/k/a Jerry D. Guess shall be arrested immediately by the United States Marshals Service and held in custody pending further order of this Court.

B. Bail provided for by N.C. Gen. Stat. § 1-420 is set at \$1,125,000 to secure this Court's previously issued Writ of Attachment.

C. The bond required from Plaintiff by N.C. Gen. Stat. § 1-412 is set at \$100.00.

If Guess is found to be an indigent person, he is entitled to services of counsel. He may petition for preliminary release on the basis of his indigency, and if he does so he will have an opportunity within 72 hours to suggest to the Court his indigency for purposes of appointment of counsel and preliminary release, and the Court will thereupon appoint counsel for him if it is adjudged that he is unable to pay a lawyer.

SO ORDERED.

Signed: May 2, 2008

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen  
United States District Judge

